

**Before The  
Federal Communications Commission  
Washington, D.C. 20554**

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JAN 11 1993

In the Matter of )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Implementation of Section 8 of the Cable )  
Television Consumer Protection )  
and Competition Act of 1992 )

MM Docket No. 92-263

Consumer Protection and Customer )  
Service )

**COMMENTS OF COALITION OF SMALL SYSTEM OPERATORS**

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List A B C D E

## TABLE OF CONTENTS

	<u>Page</u>
I. SMALL SYSTEM OPERATORS SHOULD BE EXEMPT FROM CERTAIN CUSTOMER SERVICE REQUIREMENTS.....	3
A. Service/Installation Deadlines .....	3
B. Customer Telephone Calls.....	5
C. Customer Service Centers .....	6
II. RANGE OF SERVICE MINIMUMS NOT PRACTICABLE.....	7
III. EXISTING FRANCHISE AGREEMENTS SHOULD BE GRANDFATHERED.....	7
IV. SMALL SYSTEM EXEMPTIONS ARE PERMISSIBLE UNDER THE STATUTE.....	8
V. CONCLUSION.....	9

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**COMMENTS OF COALITION OF SMALL SYSTEM OPERATORS**

On behalf of the Coalition of Small System Operators 1/, we submit the following comments in response to the Notice of Proposed Rulemaking in the captioned proceeding (the "NPRM").

The Small System Operators operate cable television systems primarily serving small, rural communities which would not otherwise have cable television service because large multiple system operators have shown little interest in these sparsely populated areas. Together, the Small System Operators operate a total of 2,011 systems serving 748,409 subscribers. The vast majority of these small systems have fewer than 1,000 subscribers, and 76 percent have fewer than 500 subscribers. The average system serves 372 subscribers. The average density for the systems operated by the Small System Operators is 37.25 homes passed per mile as compared with the national average of 77 homes passed per mile. Because they are unable to

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1/ The Coalition of Small Systems Operators consists of Douglas Cable Communications, Inc., Midcontinent Media, Inc., Galaxy Cablevision, Vantage Cable, Classic Cable, USA Cablesystems, Inc., MW1 Cablesystems Inc., Buford Television, Inc. and Triax Communications Corp.

spread the cost of doing business over a large number of subscribers, the cost per subscriber is substantially higher for these small systems than for larger systems.

In order to take advantage of economies of scale where possible, many of the Small System Operators' systems have little choice but to operate from centralized regional offices covering large geographic territories, rather than from individual offices in each community. Because the areas served by the systems generally have very low density, the Systems must cover large geographic areas in order to expand their subscriber bases, and therefore must deal with numerous franchise authorities. Some of the Small System Operators have more than 350 franchise agreements, yet have less than 38,000 subscribers -- an average of 108 subscribers per franchise agreement. Some franchise areas have fewer than 50 subscribers. Because the Small System Operators must cover more territory and have fewer subscribers to absorb the costs, the profit margin for these systems is much less than for systems serving densely populated areas. One typical Small System Operator reports that one of its regional offices services systems covering 22,000 square miles, including areas in different states, some located hundreds of miles from the office. This type of consolidation, while necessary from a business standpoint, does not lend itself to certain of the customer service rules proposed by the Commission which appear to be designed with larger operators in mind.

The Small System Operators are very much aware of the NCTA's customer service guidelines, and those guidelines are followed wherever it is feasible to do so. Where achievement of the recommended standards is impossible or unduly burdensome, the Small System Operators instead strive to attain a reasonable level of service that is appropriate for a

given system's size. For systems that serve sparsely populated areas, the subscription rate is critical. The Small System Operators recognize the importance of quality service to customers and will continue to do so.

**I. SMALL SYSTEM OPERATORS SHOULD BE EXEMPT FROM CERTAIN CUSTOMER SERVICE REQUIREMENTS**

The Small System Operators urge the Commission to exempt small systems (i.e. systems with fewer than 1,000 subscribers) from certain of the customer service standards which would be unduly burdensome or even fatal to these often marginal operations. Based on the past experience of trying to achieve compliance with the NCTA guidelines, the Small System Operators have learned that certain service requirements are simply too costly for some small systems to achieve. To the extent that the Commission adopts service minimums in the specific areas discussed below, small systems (i.e. under 1,000 subscribers) should be exempt. 2/

**A. Service/Installation Deadlines**

Most of the Small System Operators' systems find it difficult or impossible to meet the NCTA's recommended service deadlines for installation and/or repair of equipment in subscribers' homes. Because the

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2/ To the extent that the FCC adopts regulations that apply to consolidated offices rather than to individual systems, the Small System Operators request that consolidated offices serving multiple systems which, on average, serve fewer than 1,000 subscribers also be exempted. One of the Small System Operators operates 40 of its systems from a single central office which serves about 16,000 subscribers. Even though several of the systems serve more than 1,000 subscribers, the overall average is 400 subscribers per system. The average density for these systems is 22 homes passed per mile. Clearly, this operator should qualify as a small system operator and should not be punished for operating more efficiently by consolidating its offices.

systems generally serve such large geographical areas from a single office, technicians often must travel long distances to reach subscribers' homes. It is common in these systems for a single technician to be responsible for a 2,500 square mile area. The average technician for one of the systems drives 1,000 miles a week to service rural areas. A regional office operated by a Small System Operator serves systems in five states covering more than 22,000 square miles. Approximately 29 field service representatives cover this entire area. Even with field service representatives stationed in the field throughout the service areas, the extensive territory which must, for economic reasons, be covered by a single technician renders guaranteed compliance with service and installation deadlines completely impractical.

To illustrate the impossibility of compliance, one operator estimated that in order to guarantee compliance with the NCTA's customer service deadlines, it would have to double the number of its technicians from 32 to 64. Based on the estimated cost of \$40,000 a year for salary, benefits and vehicles for each of the 32 extra technicians, the system would spend \$1.2 million a year to comply with just this one NCTA guideline. This operator's systems serve about 38,000 subscribers, which means that compliance with this one rule would cost \$31.57 per subscriber. Of course, this operator, which charges an average of \$28.00 per subscriber for full cable service, simply could not recover these extra costs through rate increases and expect to retain its subscribers. Even if the FCC adopted more relaxed rules, the added expense of compliance could still be devastating to many small operators. Indeed, if this Small System Operator

added just five new field technicians -- which would not guarantee compliance with NCTA standards -- it would cost \$5.26 per subscriber. It is not realistic to believe that even this cost could be recovered from subscribers through rate increases. And the Commission should not create rules that would put this kind of upward pressure on rates when the primary thrust of the Act is to stabilize rates and prevent rate increases. In recognition of the unique circumstances in which small systems operate, the Commission should exempt systems serving fewer than 1,000 subscribers from any service/installation time deadlines.

#### **B. Customer Telephone Calls**

Small systems should also be exempted from telephone answering requirements. The cost of purchasing automated answering equipment -- approximately \$50,000 -- is beyond many of these small operators, who must rely on customer service representatives to handle all telephone calls. In order to meet NCTA guidelines -- which recommend that incoming calls be answered by the fourth ring and that waiting time not exceed 30 seconds -- some of the Small System Operators would have to hire additional customer service representatives, also a prohibitive expense. The cost of hiring just five additional CSRs, (at salaries of \$16,500 apiece), even if allocated among all the subscribers of a Small System Operator's systems (e.g. 30,000), would be \$2.75 a subscriber. Again, this cost could neither be passed along to customers nor absorbed by these small systems. Also, as recognized by the NCTA, the equipment required to monitor compliance

with any telephone answering requirements is not an investment that small systems should be required to make. 3/

### C. Customer Service Centers

As discussed above, the nature of the Small System Operators' systems -- service to sparsely populated, large areas -- requires the centralization of customer service centers into regional offices instead of individual offices for each community unit. As some Small System Operators have found, by operating from a regional office with one phone bank, they are able to offer extended hours of phone service and extra office hours, which would be impossible if they were required to maintain multiple smaller offices. The Small System Operators simply cannot maintain separate offices for each tiny village to which they bring cable television service. Because 76 percent of the Small System Operators' systems serve fewer than 500 subscribers, the cost per subscriber of maintaining an office in each community would be astronomical -- for example, just one CSR (at \$16,500 per year) for a system serving 500 subscribers would cost \$33.00 per subscriber annually. Systems with fewer than 1,000 subscribers should be permitted to continue to benefit from the economies of scale stemming from the operation of centralized full-service regional offices, as a benefit which allows them to bring reasonably priced service to rural areas that otherwise would be too expensive to serve.

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3/ The NCTA recognized that it would be unreasonable to expect systems with fewer than 10,000 subscribers to purchase monitoring equipment, and therefore exempted those systems from monitoring requirements. See NCTA Recommended Standards for Customer Service, at n.1. To the extent that it adopts monitoring requirements, the FCC should exempt at least systems with fewer than 1,000 subscribers from these requirements.

## **II. RANGE OF SERVICE MINIMUMS NOT PRACTICABLE**

In the NPRM, the Commission suggested that in lieu of inflexible minimum customer service requirements, a range of minimums could be established, with each franchise authority negotiating for some level of service above the minimum. At first glance, this scheme would appear to be reasonable to accommodate systems of all sizes. However, the process of negotiating and tracking different sets of customer service requirements for each town, village and burg with which it has a franchise agreement would impose an enormous burden on the Small System Operators. Once again, because each of these franchise agreements covers so few subscribers, the cost of renegotiating franchise agreements simply could not be recovered. One typical Small System Operator has approximately 200 franchises serving a total of 52,335 subscribers (an average of 261 subscribers per franchise). The systems with 261 subscribers could not begin to recover the administrative costs of renegotiating all of these franchise agreements, much less the systems with fewer than 50 subscribers. Franchise authorities also would have to shoulder substantial costs to accomplish these time-consuming negotiations. A straightforward set of service minimums, with exemptions as discussed above for small systems, would greatly reduce the otherwise crushing administrative burdens for systems and franchise authorities alike.

## **III. EXISTING FRANCHISE AGREEMENTS SHOULD BE GRANDFATHERED**

The Small System Operators urge the Commission to respect existing franchise agreements by providing that local authorities may

impose new federal customer service guidelines only after the expiration of existing franchise agreements. As discussed above, for the Small System Operators to undertake simultaneous negotiations for the revision of hundreds of franchise agreements in order to incorporate the new customer service standards would be a crushing administrative burden. The immediate imposition of this requirement would be particularly unreasonable for the Small System Operators, which already strive to comply with NCTA customer service guidelines where they can. Therefore, it is unlikely that any significant improvements in customer service would result from the immediate inclusion of the new requirements in franchise agreements.

#### **IV. SMALL SYSTEM EXEMPTIONS ARE PERMISSIBLE UNDER THE STATUTE**

The exemption of smaller systems from certain of the customer service standards is permissible under Section 632(b) of the 1992 Cable Act. The specific provisions set forth in Section 632(b)(1), (b)(2) and (b)(3) of the Act reflect areas in which the Commission is charged with the adoption of minimum customer service standards. Of course, the Commission may decide that the appropriate minimum standard in each of these areas is to adopt no standard at all. Because the Commission retains this discretion to effectively exempt cable systems from customer service regulation by reducing to nothing the minimum requirements, the Commission certainly has the discretion to exempt small systems from any standards it chooses to adopt. <sup>4/</sup>

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<sup>4/</sup> This is particularly true with respect to smaller systems (with under 1,000 subscribers), which another section of the Act specifically suggests should be treated differently so as to reduce administrative burdens and costs. 47 U.S.C. § 543(i).

Special treatment for small systems is also supported by language in Section 626 of the Communications Act of 1934, as amended, which provides that franchise authorities must consider whether cable operators' proposals are "reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests." 47 U.S.C. § 546. The Commission may exclude small systems from customer service standards which it deems to be unreasonable in view of the costs.

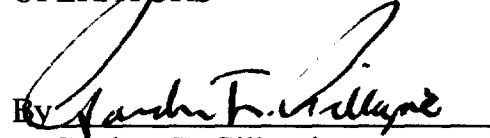
## V. CONCLUSION

The Small System Operators provide a unique and important service to sparsely populated, rural areas, often at a marginal profit level. In many cases, fundamental physical characteristics of the Small System Operators' systems render guaranteed compliance with every NCTA customer service guideline impossible. Nevertheless, the Small System Operators strive to provide quality customer service within the NCTA guidelines whenever possible. The Commission should recognize that the imposition of rigid standards on these fragile companies would certainly have the effect of limiting their ability to expand service into even more rural areas, and their inability to recover the majority of these substantial costs could drive them to discontinue or reduce service to sparsely populated areas altogether. The Commission should be mindful of the devastating effect that increased

regulation could have on these small operators and should exempt them entirely from the unduly burdensome regulations discussed above.

Respectfully submitted,

COALITION OF SMALL SYSTEM  
OPERATORS

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